

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

v.

Case No. 1:15-cr-69
JUDGE DOUGLAS R. COLE

JASON GMOSEER,

Defendant.

PRELIMINARY ORDER OF FORFEITURE

This cause comes before the Court on the United States' Motion for Preliminary Order of Forfeiture. (Doc. 47). The Court has reviewed the evidence in the record, including the Plea Agreement, and HEREBY FINDS THAT:

On July 1, 2015, a grand jury in the Southern District of Ohio returned a twelve-count Indictment charging defendant Jason Gmoser in Count 6 with Production of Child Pornography, in violation of 18 U.S.C. § 2251(a), among other violations. (Doc. 11).

The forfeiture allegation in the Indictment provided notice to the defendant that the United States would seek the forfeiture, pursuant to 18 U.S.C. § 2253(a), of any unlawful visual depiction or property that contains such visual depiction as set forth in 18 U.S.C. § 2253(a)(1) and/or any property the defendant used or intended to use to commit the offenses charged in the Indictment. (*Id.*). The United States has identified the following property for forfeiture (the "subject property"):

- Sony Camera; Serial No. 3515950;
- Lexar 1 GB Memory Stick;

- Sony 4GB Memory Stick;
- Three (3) SanDisk Thumb Drives labeled, Recovery; UBCD 4WM 3.60 Windows SerVer 2003 SP2; and Parted Magic;
- Western Digital 40GB Hard Drive; Serial No. WXC406022218;
- One External Western Digital Hard Drive with Power Cord; Serial No. WCAWZ1809056;
- One External Western Digital Hard Drive with Power Cord; Serial No. WCAWZ1628172;
- One External Western Digital Hard Drive with Power Cord; Serial No. WCAWZ0670461;
- One External Western Digital Hard Drive with Power Cord; Serial No. WCAVY0031389;
- One External Western Digital Hard Drive with Power Cord; Serial No. WCAVY0088890;
- One External Western Digital Hard Drive with Power Cord; Serial No. WCAWZ0731050;
- One External Western Digital Hard Drive with Power Cord; Serial No. Unknown;
- One External Western Digital Hard Drive with Power Cord; Serial No. WXG1AB0H9564;
- Patriot 8GB Micro SD Card with Adaptor; Serial No. Unknown;
- One Western Digital My Passport Hard Drive with Power Cord; Serial No. WXV1E30XYX35T;
- One Western Digital My Passport Hard Drive with Power Cord; Serial No. WXM1AB0Y6625;
- One Western Digital My Passport Hard Drive with Power Cord; Serial No. WX41C32D7404;
- One Western Digital My Passport Hard Drive with Power Cord; Serial No. WXT1CB1S4712;

- One Western Digital My Passport Hard Drive with Power Cord; Serial No. WXR1A3063089;
- SanDisk Cruzer 32GB Thumb Drive; Serial No. Unknown;
- SanDisk Cruzer 8GB Thumb Drive; Serial No. Unknown;
- SanDisk Cruzer 2GB Thumb Drive; Serial No. Unknown;
- One 32GB PNY Micro SD Card with Adapter; Serial No. Unknown;
- Sony Play Station 3 Console with One Controller; Serial No. CE804470955-CECHH01;
- Logitech Video Web Camera with Cord; Serial No. 1236LZ0FK3V8;
- Nokia Cellular Phone; IMEI 351967/05/197633/5;
- Coolmax Dual Bay SSTA Raid External Hard Drive with Power Cord; Serial No. MQ0509105106;
- Coolmax Dual Bay SSTA Raid External Hard Drive with Power Cord; Serial No. MQ0509105359;
- Sony Vaio Laptop Computer with Cords; Serial No. 545709390000269;
- HP Pavilion Elite Desktop Computer; Serial No. MXX0250GXJ;
- HP Pavilion Elite Desktop Computer; Serial No. MXX029041K;
- Raid Computer Tower with Cords; Serial No. A328ADAEAR200018;
- Raid Computer Tower with Cords; Serial No. A225ADAEAR200088;
- HGST Hard Drive; Serial No. 6PGMJMUC;
- Bitmain Antiminer Labeled “8-18-14” “3”; Serial No. Unknown;
- Bitmain Antiminer Labeled “8-19-14” “5”; Serial No. Unknown;
- Bitmain Antiminer Labeled “8-18-14” “4”; Serial No. Unknown;
- Bitmain Antiminer Labeled “7-24-14” “1”, Serial No. Unknown;
- Bitmain Antiminer Labeled “7-31-14 8/12/14 100%” “2”; Serial No. Unknown;

- Box Containing 7 Bitmain Antminer Accessories; Serial No. Unknown;
- Seagate Hard Drive; Serial No. 5PV1A4T2;
- All additional items seized, including, but not limited to: all storage media (micro SD cards, 8mm video tapes, Zip drives, CDs, mini CDs, CDRs, DVDs, mini DVDs, floppy disks, VHS tapes, and cassette tapes), documents, packages and photographs; and
- All pornographic material, whether depicting adults or minors or both, and all photographs which depict minors, other than photographs of clothed minor members of the defendant's family.

On December 6, 2022, the defendant entered into a Plea Agreement with the United States in which the defendant agreed to plead guilty to Count 6 of the Indictment and agreed to the forfeiture of the subject property pursuant to 18 U.S.C. § 2253(a)(1) and (3). (Doc. 45). The defendant entered a plea of guilty to Count 6 of the Indictment on December 7, 2022. (Doc. 46).

The subject property is forfeitable, pursuant to 18 U.S.C. § 2253(a)(1) and (3), as property that contains an unlawful visual depiction and/or was used or intended to be used to commit the offense charged in Count 6 of the Indictment. The defendant had an interest in the subject property.

The United States has established the requisite nexus between the subject property and the offense to which the defendant has pled guilty.

THEREFORE, IT IS HEREBY ORDERED THAT:

1. All right, title, and interest in the subject property is condemned and forfeited to the United States pursuant to 18 U.S.C. § 2253(a)(1) and (3).
2. The United States is authorized to seize the subject property, pursuant to 21 U.S.C. § 853(g) and Fed. R. Crim. P. 32.2(b)(3), whether held by the defendant

or a third party; conduct any discovery for identifying, locating, or disposing of the property; and to commence proceedings that comply with any statutes governing third party rights.

3. In accordance with the direction provided by the Attorney General and Fed. R. Crim. P. 32.2(b)(6), the United States shall publish notice of this Order and send notice to any person who reasonably appears to be a potential claimant with standing to contest the forfeiture in the ancillary proceeding. Publication must take place as described in Supplemental Rule G(4)(a)(iii) of the Federal Rules of Civil Procedure, and may be by any means described in Supplemental Rule G(4)(a)(iv). Publication is unnecessary if any exception in Supplemental Rule G(4)(a)(i) applies.

4. The notice must describe the forfeited property, state the times under the applicable statute when a petition contesting the forfeiture must be filed, and state the name and contact information for the government attorney to be served with the petition. The notice may be sent in accordance with Supplemental Rules G(4)(b)(iii)-(v).

5. Pursuant to 21 U.S.C. § 853(n)(2), any person, other than the defendant, asserting a legal interest in the subject property, who wishes to contest the forfeiture of the subject property must, within thirty (30) days of the final publication of notice or of receipt of actual notice, whichever is earlier, file a petition in the United States District Court for the Southern District of Ohio for a hearing to adjudicate the validity of the alleged legal interest in the subject property.

6. Any petition filed by a third party shall be signed by the petitioner under penalty of perjury and shall set forth the nature and extent of the petitioner's right,

title, or interest in the property; the time and circumstances of the petitioner's acquisition of the right, title, or interest in the property; any additional facts supporting the petitioner's claim; and the relief sought.

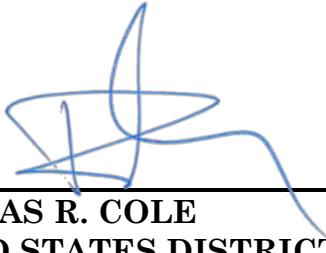
7. The United States shall have clear title to the subject property following the Court's disposition of all third-party interests, or if no third-party petitions are timely filed, following the expiration of the period provided by statute for the filing of third-party petitions.

8. In accordance with the Plea Agreement, this Preliminary Order of Forfeiture is final as to the defendant and shall be made part of the sentence and included in the Judgment. This Order remains preliminary as to third parties until the ancillary proceeding is concluded.

SO ORDERED.

January 10, 2023

DATE



DOUGLAS R. COLE
UNITED STATES DISTRICT JUDGE